

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 590

By: Montgomery of the Senate

and

Martinez of the House

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7
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9 COMMITTEE SUBSTITUTE

10 [digital asset mining - Commercial Digital Asset

11 Mining Act of 2022 - codification - effective date]

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14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1359.3 of Title 68, unless there
17 is created a duplication in numbering, reads as follows:

18 This act shall be known and may be cited as the "Commercial
19 Digital Asset Mining Act of 2022".

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1359.4 of Title 68, unless there
22 is created a duplication in numbering, reads as follows:

23 It is the intent of the Legislature that:
24

1 1. The State of Oklahoma provide appropriate incentives to
2 attract investments and jobs in innovative technological industries
3 and sectors to this state;

4 2. Blockchain technology is innovative technology that may be
5 utilized in multiple industries to secure data and reduce fraud;

6 3. Access to cost-effective energy is critical in the use of
7 blockchain technology, particularly in the commercial mining of
8 digital assets which requires large amounts of energy; and

9 4. The original intent of the Legislature that the Oklahoma Tax
10 Code recognize the continuing development of new and advanced
11 manufacturing and industrial processing technologies has led to new
12 industrial processes. Blockchain technology used in the commercial
13 mining of digital assets is an industrial process that should be
14 taxed in a manner similar to historical forms of manufacturing or
15 industrial processing in order to encourage the location and
16 expansion of such operations in this state rather than in competing
17 states.

18 SECTION 3. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1359.5 of Title 68, unless there
20 is created a duplication in numbering, reads as follows:

21 A. 1. "Blockchain technology" means shared or distributed data
22 structures or digital ledgers governed by consensus protocols and
23 maintained by peer-to-peer networks that:

24 a. store digital transactions, and

1 b. verify and secure transactions cryptographically;

2 2. "Colocation facility" means a facility or facilities,
3 totaling not less than fifty thousand (50,000) square feet, located
4 in this state and utilized in the commercial mining of digital
5 assets or in hosting persons engaged in the commercial mining of
6 digital assets through utilization of the facility's infrastructure,
7 including servers and network hardware powered by Internet
8 bandwidth, electricity, and other services generally required for
9 mining operations;

10 3. "Commercial mining of digital assets" means the process
11 through which blockchain technology is used to mine digital assets
12 at a colocation facility;

13 4. "Digital assets" means a type of virtual currency that
14 utilizes blockchain technology and that:

15 a. can be digitally traded between users, or

16 b. can be converted or exchanged for legal tender; and

17 5. "Mine" means the process through which blockchain
18 transactions are verified and accepted by adding the transactions to
19 a blockchain ledger, which involves solving complex and mathematical
20 cryptographic problems associated with a block containing
21 transaction data.

22 B. Beginning on the effective date of this act and ending on
23 December 31, 2037, the sale of machinery and equipment including but
24 not limited to servers and computers, racks, power distribution

1 units, cabling, switchgear, transformers, substations, software,
2 network equipment, and electricity used for commercial mining of
3 digital assets in a colocation facility shall be exempt from the tax
4 imposed by Section 1350 et seq. of Title 68 of the Oklahoma
5 Statutes.

6 SECTION 4. AMENDATORY 68 O.S. 2021, Section 2357.4, is
7 amended to read as follows:

8 Section 2357.4 A. Except as otherwise provided in subsection F
9 of Section 3658 of this title and in subsections J and K of this
10 section, for taxable years beginning after December 31, 1987, there
11 shall be allowed a credit against the tax imposed by Section 2355 of
12 this title for:

13 1. Investment in qualified depreciable property placed in
14 service during those years for use in a manufacturing operation, as
15 defined in Section 1352 of this title, which has received a
16 manufacturer exemption permit pursuant to the provisions of Section
17 1359.2 of this title ~~or,~~ a qualified aircraft maintenance or
18 manufacturing facility in this state as defined in Section 1357 of
19 this title ~~in this state or,~~ a qualified web search portal as
20 defined in Section 1357 of this title, or, for tax year 2022 and
21 subsequent tax years, for use in a colocation facility as defined in
22 Section 3 of this act; or

23 2. A net increase in the number of full-time-equivalent
24 employees in a manufacturing operation, as defined in Section 1352

1 of this title, which has received a manufacturer exemption permit
2 pursuant to the provisions of Section 1359.2 of this title ~~or,~~ a
3 qualified aircraft maintenance or manufacturing facility defined in
4 Section 1357 of this title in this state ~~or,~~ in a qualified web
5 search portal as defined in Section 1357 of this title, or, for tax
6 year 2022 and subsequent tax years, in a colocation facility as
7 defined in Section 3 of this act including employees engaged in
8 support services.

9 B. Except as otherwise provided in subsection F of Section 3658
10 of this title and in subsections J and K of this section, for
11 taxable years beginning after December 31, 1998, there shall be
12 allowed a credit against the tax imposed by Section 2355 of this
13 title for:

14 1. Investment in qualified depreciable property with a total
15 cost equal to or greater than Forty Million Dollars (\$40,000,000.00)
16 within three (3) years from the date of initial qualifying
17 expenditure and placed in service in this state during those years
18 for use in the manufacture of products described by any Industry
19 Number contained in Division D of Part I of the Standard Industrial
20 Classification (SIC) Manual, latest revision; or

21 2. A net increase in the number of full-time-equivalent
22 employees in this state engaged in the manufacture of any goods
23 identified by any Industry Number contained in Division D of Part I
24 of the Standard Industrial Classification (SIC) Manual, latest

1 revision, if the total cost of qualified depreciable property placed
2 in service by the business entity within the state equals or exceeds
3 Forty Million Dollars (\$40,000,000.00) within three (3) years from
4 the date of initial qualifying expenditure.

5 C. The business entity may claim the credit authorized by
6 subsection B of this section for expenditures incurred or for a net
7 increase in the number of full-time-equivalent employees after the
8 business entity provides proof satisfactory to the Oklahoma Tax
9 Commission that the conditions imposed pursuant to paragraph 1 or
10 paragraph 2 of subsection B of this section have been satisfied.

11 D. If a business entity fails to expend the amount required by
12 paragraph 1 or paragraph 2 of subsection B of this section within
13 the time required, the business entity may not claim the credit
14 authorized by subsection B of this section but shall be allowed to
15 claim a credit pursuant to subsection A of this section if the
16 requirements of subsection A of this section are met with respect to
17 the investment in qualified depreciable property or net increase in
18 the number of full-time-equivalent employees.

19 E. The credit provided for in subsection A of this section, if
20 based upon investment in qualified depreciable property, shall not
21 be allowed unless the investment in qualified depreciable property
22 is at least Fifty Thousand Dollars (\$50,000.00). The credit
23 provided for in subsection A or B of this section shall not be
24 allowed if the applicable investment is the direct cause of a

1 decrease in the number of full-time-equivalent employees. Qualified
2 property shall be limited to machinery, fixtures, equipment,
3 buildings, or substantial improvements thereto, placed in service in
4 this state during the taxable year. The taxable years for which the
5 credit may be allowed if based upon investment in qualified
6 depreciable property shall be measured from the year in which the
7 qualified property is placed in service. If the credit provided for
8 in subsection A or B of this section is calculated on the basis of
9 the cost of the qualified property, the credit shall be allowed in
10 each of the four (4) subsequent years. If the qualified property on
11 which a credit has previously been allowed is acquired from a
12 related party, the date ~~such~~ the property is placed in service by
13 the transferor shall be considered ~~to be~~ the date ~~such~~ the property
14 is placed in service by the transferee, for purposes of determining
15 the aggregate number of years for which credit may be allowed.

16 F. The credit provided for in subsection A or B of this
17 section, if based upon an increase in the number of full-time-
18 equivalent employees, shall be allowed in each of the four (4)
19 subsequent years only if the level of new employees is maintained in
20 the subsequent year. In calculating the credit by the number of new
21 employees, only those employees whose paid wages or salary were at
22 least Seven Thousand Dollars (\$7,000.00) during each year the credit
23 is claimed shall be included in the calculation. Provided, that the
24 first year a credit is claimed for a new employee, ~~such~~ the employee

1 may be included in the calculation notwithstanding paid wages of
2 less than Seven Thousand Dollars (\$7,000.00) if the employee was
3 hired in the last three quarters of the tax year, has wages or
4 salary which will result in annual paid wages in excess of Seven
5 Thousand Dollars (\$7,000.00) and the taxpayer submits an affidavit
6 stating that the employee's position will be retained in the
7 following tax year and will result in the payment of wages in excess
8 of Seven Thousand Dollars (\$7,000.00). The number of new employees
9 shall be determined by comparing the monthly average number of full-
10 time employees subject to Oklahoma income tax withholding for the
11 final quarter of the taxable year with the corresponding period of
12 the prior taxable year, as substantiated by such reports as may be
13 required by the Tax Commission.

14 G. The credit allowed by subsection A of this section shall be
15 the greater amount of either:

16 1. One percent (1%) of the cost of the qualified property in
17 the year the property is placed in service; or

18 2. Five Hundred Dollars (\$500.00) for each new employee. No
19 credit shall be allowed in any taxable year for a net increase in
20 the number of full-time-equivalent employees if ~~such~~ the increase is
21 a result of an investment in qualified depreciable property for
22 which an income tax credit has been allowed as authorized by this
23 section.

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1 H. The credit allowed by subsection B of this section shall be
2 the greater amount of either:

3 1. Two percent (2%) of the cost of the qualified property in
4 the year the property is placed in service; or

5 2. One Thousand Dollars (\$1,000.00) for each new employee.

6 No credit shall be allowed in any taxable year for a net
7 increase in the number of full-time-equivalent employees if such
8 increase is a result of an investment in qualified depreciable
9 property for which an income tax credit has been allowed as
10 authorized by this section.

11 I. Except as provided by subsection G of Section 3658 of this
12 title, any credits allowed but not used in any taxable year may be
13 carried over in order as follows:

14 1. To each of the four (4) years following the year of
15 qualification;

16 2. To the extent not used in those years in order to each of
17 the fifteen (15) years following the initial five-year period;

18 3. If a C corporation that otherwise qualified for the credits
19 under subsection A of this section subsequently changes its
20 operating status to that of a pass-through entity which is being
21 treated as the same entity for federal tax purposes, the credits
22 will continue to be available as if the pass-through entity had
23 originally qualified for the credits subject to the limitations of
24 this section;

1 4. To the extent not used in paragraphs 1 and 2 of this
2 subsection, such credits from qualified depreciable property placed
3 in service on or after January 1, 2000, may be utilized in any
4 subsequent tax years after the initial twenty-year period; and

5 5. Provided, for tax years beginning on or after January 1,
6 2016, and ending on or before December 31, 2018, the amount of
7 credits available as an offset in a taxable year shall be limited to
8 the percentage calculated by the Tax Commission pursuant to the
9 provisions of subsection L of this section.

10 J. No credit otherwise authorized by the provisions of this
11 section may be claimed for any event, transaction, investment,
12 expenditure, or other act occurring on or after July 1, 2010, for
13 which the credit would otherwise be allowable until the provisions
14 of this subsection shall cease to be operative on July 1, 2012.
15 Beginning July 1, 2012, the credit authorized by this section may be
16 claimed for any event, transaction, investment, expenditure, or
17 other act occurring on or after July 1, 2010, according to the
18 provisions of this section; provided, credits accrued during the
19 period from July 1, 2010, through June 30, 2012, shall be limited to
20 a period of two (2) taxable years. The credit shall be limited in
21 each taxable year to fifty percent (50%) of the total amount of the
22 accrued credit. Any tax credits which accrue during the period of
23 July 1, 2010, through June 30, 2012, may not be claimed for any
24 period prior to the taxable year beginning January 1, 2012. No

1 credits which accrue during the period of July 1, 2010, through June
2 30, 2012, may be used to file an amended tax return for any taxable
3 year prior to the taxable year beginning January 1, 2012.

4 K. Beginning January 1, 2017, except with respect to tax
5 credits allowed from investment or job creation occurring prior to
6 January 1, 2017, the credits authorized by this section shall not be
7 allowed for investment or job creation in electric power generation
8 by means of wind as described by the North American Industry
9 Classification System, No. 221119.

10 L. For tax years beginning on or after January 1, 2016, and
11 ending on or before December 31, 2018, the total amount of credits
12 authorized by this section used to offset tax shall be adjusted
13 annually to limit the annual amount of credits to Twenty-five
14 Million Dollars (\$25,000,000.00). The Tax Commission shall annually
15 calculate and publish a percentage by which the credits authorized
16 by this section shall be reduced so the total amount of credits used
17 to offset tax does not exceed Twenty-five Million Dollars
18 (\$25,000,000.00) per year. The formula to be used for the
19 percentage adjustment shall be Twenty-five Million Dollars
20 (\$25,000,000.00) divided by the credits used to offset tax in the
21 second preceding year.

22 M. Pursuant to subsection L of this section, in the event the
23 total tax credits authorized by this section exceed Twenty-five
24 Million Dollars (\$25,000,000.00) in any calendar year, the Tax

1 Commission shall permit any excess over Twenty-five Million Dollars
2 (\$25,000,000.00) but shall factor such excess into the percentage
3 adjustment formula for subsequent years.

4 SECTION 5. This act shall become effective November 1, 2022.

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